

Amendment and Response

Applicant: Roger A. Duman

Serial No.: 10/722,240

Filing Date: November 25, 2003

Docket: G180.147.101 / GMI6164

Title: APPARATUS AND METHOD FOR TRANSPORTING CONTAINERS WITHIN A PACKAGING SYSTEM

REMARKS

The following remarks are made in response to the Non-Final Office Action mailed March 15, 2005 (“OA 3-15-05”).

In the Office Action, the Examiner acknowledged Applicant’s January 6, 2005 election to withdraw claims 10, 30, and 47.

Additionally, the Examiner rejected claims 1-9, 11-13, 15-18, 20-24, 26-29, 31, 32, 40-42, 44-46, and 49 under 35 U.S.C. § 103(a) as being unpatentable over Carter, U.S. Patent No. 3,047,032 (“Carter”) in view of Randrup, U.S. Patent No. 3,169,629 (“Randrup”). Claims 19, 38, 39, and 48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carter in view of Randrup as applied to claims 1 and 26 above, and further in view of Peronek, U.S. Patent No. 5,934,042 (“Peronek”). Finally, claims 25 and 43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carter in view of Randrup as applied to claims 21 and 26 above, and further in view of Gibble et al., U.S. Patent No. 3,556,174 (“Gibble”).

The Examiner’s indication that claims 14 and 33-37 would be allowable if re-written in independent form is noted with appreciation.

With this Response, claims 1, 26, and 44 have been amended. Claims 1-9, 11-29, 31-46, and 48-49 remain pending in the application and presented for consideration and allowance.

35 U.S.C. § 103 Rejections

The Examiner rejected independent claims 1, 26, and 44 under 35 U.S.C. § 103(a) as being unpatentable over Carter in view of Randrup. Claim 1 relates, in part, to a method of transporting containers from a first station to a second station within an a container-filling system, the method comprising moving a carrier plate from the first station to the second station, wherein a mounting piece secures a container relative to movement of the carrier plate. Claim 26 as amended relates, in part, to a container-filling system for filling containers, the system comprising at least one mounting piece assembled to a carrier plate and extending from an upper surface, the mounting piece adapted to engage an interior surface of a longitudinal recess of a respective one of the containers and secure the container relative to movement of the carrier

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plate. Claim 44 as amended relates, in part, to a transport device for use with a container packaging system in packaging one or more containers, the transport device comprising at least one mounting piece assembled to a carrier plate and extending from a top surface, the mounting piece adapted to engage an interior surface of a longitudinal recess of the respective one of the containers and secure the container relative to movement of the carrier plate. For at least the reasons described below, none of the cited references teach or suggest such limitations.

As a first point of distinction, Randrup fails to teach or suggest a mounting piece that secures, or is adapted to secure, a container relative to movement of a carrier plate. In fact, the elongated element 32, cited by the Examiner as being the claimed “mounting piece”, clearly allows the specially modified bottles of Randrup to move relative to movement of conveyor 1. (See Randrup, FIGS. 1 and 2.) This should be understood from the Figures, as the relative spacing between bottles 2 is shown to change as conveyor 3 progresses along its path of movement. As further evidence of this non-secure relationship, Randrup specifically teaches that element 32 travels at a greater speed than the conveyor 3, such that “the spotting operation is carried out that much faster.” (Randrup, col. 3, ll. 30-32.) If the element 32 travels at a different speed than the conveyor 3, it cannot secure the bottles 2 relative to movement of the conveyor 3. In fact, reference to the advantages of these differential speeds (Randrup, col. 3, ll. 14-25) teaches away from securing the bottles 2 relative to movement of the carrier plate.

With reference to Carter, it should be understood that the bottles of Carter clearly are shown to move relative to the movement of conveyor C, cited by the Examiner as being a “carrier plate”. In fact, it is necessary to the functionality of the container-filling apparatus of Carter that the bottles slide over, or otherwise move relative to movement of the conveyor C. In particular, spacing screw S sets an inter-bottle distance, while the bottles are traveling on conveyor C, so they can be properly moved to the container-filling apparatus, and in particular, start wheel W. (See Carter, FIG. 1 and col. 5, ll. 12-19.) To restate, if the bottles are secured relative to motion of conveyor C, they cannot be spaced apart and moved to the filling station using wheel W. There is no suggestion or motivation to make a modification if the proposed modification would render a prior art invention unsatisfactory for its intended purpose. (MPEP §

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2143.01.) As such, Carter also fails to teach or suggest the limitations of independent claims 1, 26, and 44 as amended, and in fact, cannot incorporate such limitations without defeating the functionality of Carter.

The Examiner rejected several dependent claims as being unpatentable over Carter in view of Randrup as applied to claims 1, 26, and 44, and further in view of either Peronek or Gibble. As Carter and Randrup either teach away from the limitations of claims 1, 26, and 44, or cannot be properly modified to incorporate such limitations, none of the cited references, either alone or in combination, teach or suggest such limitations.

In light of the above, none of the cited references either alone, or in combination, teach or suggest the limitations of independent claims 1, 26, and 44 as amended. As such, the Examiner's rejection is respectfully traversed. Withdrawal of the rejection, allowance of those claims, and notice to that effect are requested. Claims 2-9, 11-25, 27-29, 31-43, 45, 46, 48, and 49 depend, in some form, from independent claims 1, 26, or 44 as amended. Therefore, for at least reasons similar to those described above, those claims also present patentably distinct material from the cited references. As such, their rejection is respectfully traversed. Withdrawal of their rejection, allowance, and notice to that effect are requested.

CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1-9, 11-29, 31-46, 48, and 49 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-9, 11-29, 31-46, and 48-49 is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

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Any inquiry regarding this Amendment and Response should be directed to Timothy A. Czaja at Telephone No. (612) 573-2004, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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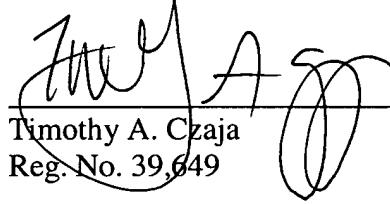
Respectfully submitted,

Roger A. Duman,

By his attorneys,

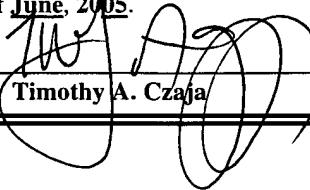
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CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 15th day of June, 2005.

By 
Name: **Timothy A. Czaja**